



South Carolina House of Representatives

# Legislative Update

Robert W. Harrell, Jr., Speaker of the House

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## HOUSE WEEK IN REVIEW

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The House of Representatives amended, approved, and sent the Senate **H.3248**, a bill relating to the **ENFORCEMENT AND PROSECUTION OF IDENTITY THEFT OFFENSES**. The legislation enhances identity fraud and financial identity fraud provisions by establishing more expansive criteria for personal identifying information and financial resources that are to be used in determining whether fraud has been committed. The legislation provides that the venue for the prosecution of identity fraud and financial identity fraud offenses is in the county in which the victim resided at the time the information was obtained or used. Conforming language contained in financial transaction card crime is added to provide that, in a prosecution for a violation of identity fraud offenses, the state is not required to establish and it is not a defense that some of the acts constituting the crime did not occur in this state or within one city, county, or local jurisdiction. The legislation revises the provision that allows someone who learns or reasonably suspects that he is the victim of identity theft to initiate an investigation by reporting to a local law enforcement agency that has jurisdiction over his actual legal residence, so as to eliminate the law enforcement agency's option of referring the investigation to another law enforcement agency where the crime was committed.

The House approved and enrolled for ratification **S.156**, a bill **EXPANDING THE MEMBERSHIP OF THE HUNLEY COMMISSION TO INCLUDE THE LIEUTENANT GOVERNOR** so that he, or his designee, serves as the commission's tenth member in an ex officio capacity.

## HOUSE COMMITTEE ACTION

### LABOR, COMMERCE AND INDUSTRY

The full Labor, Commerce and Industry Committee met Thursday, January 17, and gave a report of favorable with amendments on **H.3096**, the “**STATE HEALTH CARE FREEDOM ACT**”. The bill provides that the state of South Carolina must not elect to establish or operate an American Health Benefit Exchange, must not establish a governmental agency or nonprofit entity to operate an American Health Benefit Exchange, and must not participate in a regional exchange as provided for in the federal "Patient Protection and Affordable Care Act" of 2010 or federal regulations promulgated pursuant to that act.

## BILLS INTRODUCED IN THE HOUSE THIS WEEK

### EDUCATION AND PUBLIC WORKS

**H.3339** **COMPULSORY ATTENDANCE REQUIREMENT IN SCHOOLS**  
Rep. Govan

This legislation increases the compulsory age for attending school from seventeen to eighteen.

**H.3345 MOPED REGISTRATION AND REGULATION Rep. Lucas**

This bill establishes new provisions for the registration of mopeds by the Department of Motor Vehicles. The legislation revises definitions as well as provisions governing the operation of mopeds. Among other things, the legislation includes a provision that no person may operate a moped at a speed in excess of thirty miles an hour, rather than the current twenty-five, or on a highway with a maximum speed limit that is greater than forty-five miles an hour.

**H.3353 OPERATION OF ALL-TERRAIN VEHICLES ALONG THE STATE'S HIGHWAYS Rep. Whitmire**

This legislation makes provisions relating to the operation of golf carts along the state's highways also apply to the operation of all-terrain vehicles.

**H.3360 ADDING AND REMOVING ROADS FROM THE STATE HIGHWAY SYSTEM Rep. Owens**

This is a bill revising the procedure for adding and removing roads from the state highway system. Under the legislation, a county or municipality and the Department of Transportation (DOT) may by mutual consent agree to transfer a road from the county or municipal road system to the state highway system. The transfer may be of the road 'as is', without further improvement to the road or upon such terms and conditions as the parties mutually agree. Notification of the transfer must be given to the county's legislative delegation. If the department determines that a road in the county or municipal road system is necessary for the interconnectivity of the state highway system, and the municipality or county does not consent to the transfer, the department may initiate a condemnation action to acquire the road, or a portion of it, and the county or municipality is not required to make any further improvements to it. The legislation authorizes DOT to transfer from the state highway secondary system any road under its jurisdiction determined to be of low traffic importance to a county or municipality, a school, a governmental agency, a nongovernmental entity, or a person, with mutual consent. A county or municipality shall have first right of refusal to accept roads into their maintenance responsibility when roads are considered for transfer from the secondary highway system to a non-governmental entity or person. The legislation includes provisions about when maintenance jurisdiction begins for transferred roads. The legislation also repeals a provision relating to belt lines and spurs.

**H.3363 "SOUTH CAROLINA PUBLIC SCHOOL CARBON MONOXIDE SAFETY ACT" Rep. Govan**

This legislation enacts the "South Carolina Public School Carbon Monoxide Safety Act" to provide that every building that houses a public school from prekindergarten through twelfth grade must be equipped with a carbon monoxide detection warning system before July 1, 2014. The legislation requires the Department of Education to develop a program that each school district may use to develop its carbon monoxide detection and warning system as well as certain regulations concerning the program. The legislation further provides that a certificate of occupancy must not be issued for a school building that fails to comply with these provisions after June 30, 2014. The legislation limits liability for failing to detect carbon monoxide in a school building that complies with these provisions, except in certain circumstances.

**H.3364 SAFETY LOCKDOWN PLANS AND DRILLS Rep. Govan**

This legislation requires each school district to develop a lockdown plan for each school in the district to use in response to situations involving safety and security on the school campus. The legislation provides minimum requirements for a lockdown plan, provides a school must communicate certain information concerning its lockdown plan and related procedures to the parents or legal guardians of its students, and it provides reporting requirements and penalties for violations.

**H.3365 MANDATORY SCHOOL PSYCHOLOGISTS Rep. Govan**

This legislation requires that each public school employ a licensed psycho-educational specialist certified in school psychology by the Department of Education on a full-time basis to help school personnel identify students in need of mental health counseling, promote awareness of mental health issues and the availability of treatment, screen and identify students for mental health issues, and provide appropriate mental health counseling and make referrals for appropriate social services counseling.

**H.3368 CARDIOPULMONARY RESUSCITATION (CPR) AND AUTOMATED EXTERNAL DEFIBRILLATOR (AED) INSTRUCTION Rep. Lucas**

Beginning in the 2014-2015 school year, this legislation requires instruction in cardiopulmonary resuscitation (CPR) and the use of an automated external defibrillator (AED) in each public high school. The legislation further requires successful completion of this instruction for graduation from high school.

## JUDICIARY

**S.3 PROHIBITED GAMBLING DEVICES Sen. L. Martin**

This legislation specifies that those who are licensed to hold and advertise special events such as bingo or other similar activities intended to raise money for charitable purposes do not have the authority to make use of video poker machines, slot machines, or other coin-operated gambling machines and similar statutorily prohibited devices. The legislation also specifies that these prohibited gambling devices are not authorized for use in the sweepstakes and promotional games that beer and wine sales permit holders are allowed to conduct.

**H.3316 ESTREATMENT OF BOND OR RECOGNIZANCE Rep. Hart**

When a condition of bond or recognizance is violated by the person's failure to appear in court as required by law, this bill provides that the State has the right to full estreatment of the bond or recognizance 180 days after the person failed to appear in court as required by law.

**H.3317 PROHIBITION ON THE USAGE OF CELLULAR PHONES AND OTHER DEVICES WHILE OPERATING A MOTOR VEHICLE Rep. Hart**

This legislation provides that it is unlawful for a person to operate a motor vehicle while using a cellular telephone, pager, personal digital assistant device, or another wireless communications device while the vehicle is in motion. There is an exception for devices equipped with and operated with a hands-free mechanism. This is a misdemeanor offense and, upon conviction, a person must be imprisoned not more than 30 days, or fined not more than \$500 dollars, or both.

**H.3323 "PERSONHOOD ACT OF SOUTH CAROLINA" Rep. Barfield**

This legislation provides that the right to life for each born and preborn human being vests at fertilization. The legislation further provides that the rights guaranteed by Section 3, Article I of the State Constitution, that no person shall be deprived of life without due process of law, nor shall any person be denied the equal protection of the laws, vest at fertilization for each born and preborn human person.

**H.3324 SOUTH CAROLINA UNBORN CHILDREN'S MONUMENT Rep.**

**Barfield**

This joint resolution creates the South Carolina Unborn Children's Monument Commission to erect a monument on the State House grounds as a memorial to South Carolina children whose lives ended before their birth. The legislation provides for the powers and duties of the commission and requires private funding for the establishment of this monument.

**H.3325 DRIVER STOPPED BY LAW ENFORCEMENT OFFICER DURING NIGHTTIME MUST TURN ON VEHICLE'S INTERIOR LIGHTS**

**Rep. Barfield**

When a motor vehicle driver is stopped by a law enforcement officer during nighttime hours, this legislation requires the driver to immediately turn on the vehicle's interior lights. A person who violates this provision is guilty of a misdemeanor and, upon conviction, must be fined not more \$100.

**H.3329 REVISIONS ASSOCIATED WITH OFFENSES CONTAINED IN TITLE 50 (FISH, GAME AND WATERCRAFT) Rep. Pope**

Unless a different penalty is specified, this legislation provides that a person who violates a provision of Title 50 (Fish, Game and Watercraft) is guilty of a misdemeanor and, upon conviction, must be fined not less than \$25 nor more than \$500 or imprisoned for not more than 30 days, or both. The legislation further provides that the magistrates court has both original and concurrent jurisdiction over offenses contained in this title.

**H.3340 PROPOSED CONSTITUTIONAL AMENDMENT RELATING TO SESSIONS OF THE GENERAL ASSEMBLY Rep. Bannister**

This joint resolution proposes to amend the State Constitution relating to sessions of the General Assembly. The legislation provides for annual sessions of the General Assembly beginning on the second Tuesday in February rather than the second Tuesday in January of each year. The legislation requires each annual session of the General Assembly to adjourn sine die not later than the first Thursday in May each year. The legislation further allows the General Assembly to convene in local session and for the purpose of beginning committee meetings or hearings on the second Tuesday of January each year. The proposed amendment must be submitted to the qualified electors at the next general election for representatives.

**H.3342 BENCH WARRANTS Rep. Hart**

This bill provides that a judge may not issue a bench warrant for failure to appear in court, unless the solicitor or clerk of court has provided notice to the attorney of record before the bench warrant is issued.

**H.3344 "CLEAN AIR ACT OF 2013" Rep. Skelton**

This legislation changes the citation of the "Clean Indoor Air Act of 1990" to the "Clean Air Act of 2013". Relating to areas where smoking is prohibited, this legislation provides that smoking is prohibited within fifteen feet of the entrance to or exit from these areas.

The legislation deletes references to "indoor". The legislation also prohibits smoking in public outdoor gated facilities where athletic events and other events are held.

**H.3346 CONDITIONS UNDER WHICH THE STATE MAY SEEK A  
MANDATORY SENTENCE OF LIFE IMPRISONMENT FOR MURDER  
Rep. McCoy**

This is a bill establishing conditions under which the State may seek a mandatory sentence of life imprisonment for murder. The legislation authorizes the State to seek a mandatory sentence of life imprisonment in instances when the defendant is convicted of murdering a child eleven years of age or younger, convicted of committing a pattern of multiple murders, or convicted of murder and also found guilty of one or more of the following accompanying crimes: criminal sexual conduct in any degree, kidnapping; burglary in any degree, or robbery while armed with a deadly weapon. These sentencing provisions do not apply if the defendant is less than seventeen years of age. The State shall give written notice to the defendant ten days prior to trial of its intention to seek a mandatory sentence of life imprisonment under these provisions.

**H.3347 ATTEMPTED MURDER Rep. McCoy**

Relating to the offense of attempted murder, this legislation removes the intent to kill requirement from the purview of the offense.

**H.3348 ASSAULT AND BATTERY OFFENSES Rep. McCoy**

Relating to assault and battery offenses, this legislation redefines the term "moderate bodily injury" to mean physical injury that involves loss of consciousness, or that requires medical treatment but does not cause a substantial risk of death or which does not cause serious, permanent disfigurement or protracted loss or impairment of the function of a bodily member or organ. The legislation also includes injury to another person when the act is accomplished by the use of a deadly weapon in the purview of the offenses of assault and battery of a high and aggravated nature and assault and battery in the first degree.

**H.3349 REPEALING THE STATUTORY PROHIBITION AGAINST THE  
TESTIMONY OF A DEFENDANT BEING USED AGAINST HIM IN  
ANOTHER CRIMINAL CASE Rep. McCoy**

This is a bill repealing the statutory prohibition against the testimony of a defendant being used against him in another criminal case.

**H.3351 "TEACHER PROTECTION ACT OF 2013" Rep. McCoy**

This legislation allows a teacher to bring a civil action against a student who commits a criminal offense against the teacher if the offense occurs on school grounds or at a school-related event, or if the offense is directly related to the teacher's professional responsibilities. Nothing in this provision is intended to limit the civil remedies available to another party as a result of the same criminal act. In addition to the protections granted under the South Carolina Tort Claims Act, no teacher has civil liability to a student or to a party acting in the interest of a student for an act or omission by the teacher if the: (1) teacher was acting within the scope of the teacher's employment; (2) actions of the teacher violated no state, local, or federal law including regulations set forth by the individual district or school; (3) acts or omissions were not the result of wilful or intentional conduct or gross negligence; (4) acts or omissions were not the result of the teacher operating a motor vehicle or watercraft; and (5) actions of the teacher do not constitute a violation of the student's civil rights.

**H.3352 CREATION OF THE OFFENSES OF MAIL FRAUD AND WIRE FRAUD  
Rep. McCoy**

This legislation creates the offenses of mail fraud and wire fraud and provides criminal penalties for violations.

**H.3359 "EARTHA KITT DAY" IN SOUTH CAROLINA Rep. Cobb-Hunter**

This legislation declares January seventeenth of each year as "Eartha Kitt Day" in South Carolina.

**H.3361 PROTECTIONS FOR PETS IN COURT ORDERS OF PROTECTION  
FROM DOMESTIC ABUSE Rep. Cobb-Hunter**

This is a bill authorizing protections for pets in court orders of protection from domestic abuse in order to prevent the mistreatment of an animal from being used as a means of threatening or coercing a domestic abuse victim. This legislation authorizes a court to prohibit harm or harassment of a pet animal in an order of protection from domestic abuse. The court may also order the temporary possession of pets when providing for the temporary possession of personal property.

**H.3367 REVISIONS TO THE "SOUTH CAROLINA SOLICITATION OF  
CHARITABLE FUNDS ACT" Rep. J. E. Smith**

This legislation makes various revisions relating to the "South Carolina Solicitation of Charitable Funds Act". Among other things, the legislation revises definitions and certain filing requirements.

## **LABOR, COMMERCE AND INDUSTRY**

**H.3318 DISCLOSURE REQUIREMENTS AND LIMITATIONS ON MOTOR  
VEHICLE DATA RECORDING DEVICES Rep. Hart**

This bill requires a manufacturer of a new motor vehicle that is sold or leased in this state which is equipped with an event data recorder or a sensing and diagnostic module to disclose this information in the motor vehicle's owner's manual and on its window sticker. The legislation requires a company that rents a motor vehicle equipped with this device to disclose its existence in the company's rental agreement. The legislation provides that if a vehicle is equipped with a recording device that is capable of recording or transmitting certain information and that capability is part of a subscription service, the fact that the information may be recorded or transmitted must be disclosed in the subscription service agreement. The legislation restricts the use of certain data obtained by a recording device.

**H.3321 TWENTY-DAY MANDATORY MINIMUM GRACE PERIOD FOR  
MORTGAGE PAYMENTS Rep. Hart**

This bill establishes a mandatory minimum grace period of twenty days for a mortgage payment. The grace period provisions do not apply to a simple interest or other mortgage in which interest accrues daily.

**H.3322 REQUIREMENT FOR AT LEAST THIRTY PERCENT OF A  
MORTGAGE  
PAYMENT TO BE APPLIED TOWARD THE PRINCIPAL BALANCE OF**

***THE LOAN Rep. Hart***

This bill provides that, notwithstanding another provision of law or contract, when a mortgagee makes a payment on a loan secured by a mortgage, the mortgagor shall apply at least thirty percent of the payment received toward the principal balance of the loan secured by the mortgage. A penalty is established for a violation of the requirement.

**H.3369 *WORKERS' COMPENSATION LAW EXEMPTIONS Rep. Sandifer***

This bill provides that the state's workers' compensation laws do not apply to employees covered by the Federal Employers' Liability Act, the Longshore and Harbor Workers' Compensation Act or any of its extensions, or the Jones Act.

## **MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS**

**H.3320 *NURSING HOMES Rep. Hart***

This bill requires a nursing home to obtain and carry a liability insurance policy in the amount of at least one hundred thousand dollars.

**H.3354 *ELECTRONIC DEATH CERTIFICATES Rep. King***

This bill provides that the county registrar shall issue, upon request, death certificates that were filed electronically.

**H.3356 *ADJUTANT GENERAL Rep. Williams***

This bill adds that the Adjutant General must submit an annual report to the General Assembly as part of the responsibilities/duties.

**H.3366 *DISCLOSURE OF MEDICAL INFORMATION Rep. J. E. Smith***

This bill requires a health care provider to give a patient an opportunity to authorize disclosure of certain information to designated family members and other individuals and to authorize the involvement of these family members and other individuals in the treatment of the patient.

## **WAYS AND MEANS**

**H.3319 *"HIGH GROWTH SMALL BUSINESS JOB CREATION ACT OF 2013" Rep. Loftis***

This bill enacts the "High Growth Small Business Job Creation Act of 2013" by providing for state nonrefundable income tax credits to encourage individuals acting as "angel investors" who support the state's economic development goals by providing early stage capital for emerging high-growth enterprises that are primarily engaged in such activities as manufacturing, processing, warehousing, wholesaling, software development, information technology services, and research and development. The legislation provides for the credit to be transferable and establishes certain adjusted net capital gain and loss computations for investor taxpayers who recognize such a gain or loss on the sale of credit assets.



**H.3341 REPEAL OF “SOUTH CAROLINA REAL PROPERTY VALUATION REFORM ACT” Rep. Hart**

This bill repeals the “South Carolina Real Property Valuation Reform Act” with its “point of sale” valuation of real property for purposes of imposition of the property tax and largely reinstates the former systems of valuation and taxation of real property and improvements to real property.

**H.3343 PROPOSED CONSTITUTIONAL AMENDMENT RESCINDING REAL PROPERTY VALUATION REFORM ACT PROVISIONS Rep. Hart**

This joint resolution proposes to amend provisions of the South Carolina Constitution relating to property tax, the method of valuation of real property, and the limits on increases in the value of real property for purposes of the property tax, so as to require the General Assembly to provide by law a definition of “fair market value” for real property for purposes of the property tax, to eliminate the fifteen percent limit on increases in the value of real property over five years and to eliminate an assessable transfer of interest as an event which may change the value of the real property.

**H.3350 “SOUTH CAROLINA BUDGET AND CONTROL BOARD TRANSPARENCY AND ACCOUNTABILITY ACT” Rep. McCoy**

This bill enacts the “South Carolina Budget and Control Board Transparency and Accountability Act” to provide for the Legislative Audit Council to perform fiscal audits and management and performance audits of the various offices or divisions of the State Budget and Control Board on a rotating and continuing schedule beginning with fiscal year 2012-2013.

**H.3355 PROHIBITION ON THE EXPANSION OF MEDICAID ELIGIBILITY UNDER THE FEDERAL PATIENT PROTECTION AND AFFORDABLE CARE ACT OF 2010 Rep. Clemmons**

This bill prohibits the South Carolina Department of Health and Human Services from establishing, facilitating, implementing, or participating in the expansion of Medicaid eligibility under the Federal Patient Protection and Affordable Care Act of 2010.

**H.3357 MOTION PICTURE PRODUCTION TAX REBATE ENHANCEMENTS Rep. Henderson**

This bill increases tax rebates to a motion picture production company by the South Carolina Film Commission, by providing that the rebate may not exceed twenty, rather than the current fifteen, percent of the total aggregate payroll for qualifying persons subject to South Carolina income tax withholdings, and may not exceed twenty-five percent for South Carolina residents, for persons employed in connection with the production when total production costs in South Carolina are at least one million dollars during the taxable year. The legislation allows a rebate of up to thirty, rather than the current fifteen, percent of qualifying expenditures made by a motion picture production company with a minimum in-state expenditure of one million dollars.

**H.3358 DEPARTMENT OF REVENUE IDENTITY THEFT REIMBURSEMENT FUND Rep. J. E. Smith**

This bill establishes in the State Treasury the Department of Revenue Identity Theft Reimbursement Fund and provides that proceeds from the fund must be used to reimburse people whose personally identifiable information has been obtained by a third

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party from a compromised computer system maintained by the state or a political subdivision.

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